

qrulepubliccomments

From: Sian.Foster@fly.virgin.com
Sent: Friday, January 20, 2006 8:48 AM
To: qrulepubliccomments
Subject: Virgin Atlantic comments on CDC NPRM concerning regulation 42 CFRPart 71

Attachments: US CDC NPRM - VS response - 20JAN06.pdf



US CDC NPRM - VS
response - 20...

Please find attached Virgin Atlantic Airways' comments on the CDC NPRM to update regulations related to preventing the introduction, transmission, or spread of communicable diseases from foreign countries into the US.

If you would like any further information on any of the issues raised in this paper, please don't hesitate to contact me.

Best regards

Siân Foster

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(See attached file: US CDC NPRM - VS response - 20JAN06.pdf)

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20 January 2006

ATTN: Q RULE COMMENTS
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Division of Global Migration and Quarantine
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Submitted by email: qrulepubliccomments@cdc.gov

Dear Sir

US CDC NRPM to update regulations related to preventing the introduction, transmission, or spread of communicable diseases from foreign countries into the US

Virgin Atlantic is grateful for the opportunity to comment on the CDC's Notice of Proposed Rulemaking to update regulations 42 CFR Part 71, related to preventing the introduction, transmission or spread of communicable diseases from foreign countries into the US.

Our main concerns centre around the proposed requirement to collect and store (and electronically transmit if necessary) information on passengers' contact details. Before proceeding with plans to set up a separate system effective only for a small number of contagious diseases, we would recommend the CDC consult with colleagues at the Department for Homeland Security who are working on parallel information-gathering projects for security and immigration purposes. Developing a stand-alone system purely for quarantine purposes would be prohibitively expensive for airlines, particularly in light of the rare occasions when it would be needed.

We have covered this, and other issues, in more detail in the following pages. If you need any further information on any of the points raised, please don't hesitate to contact me.

Yours sincerely

Siân Foster
Manager, Parliamentary & External Liaison

Virgin Atlantic comments on the US CDC NRPM to update regulations related to preventing the introduction, transmission, or spread of communicable diseases from foreign countries into the US

§71.4 Bill of health

If, due to an outbreak of a contagious illness or disease in a particular country or region, carriers were required to obtain a "clean bill of health" before departing for the US, we ask that the Consulates in that area are sufficiently resourced to be able to deal with the volume of requests they could potentially receive. We would also need as much notice as possible of the introduction of this requirement, so that we could avoid delays to our flights.

§71.5 Suspension of entries and imports from designated places

Whilst we understand that in some extreme cases it may be necessary to invoke the powers to suspend the entry of carriers into the US from certain countries or regions, a proportionate approach should always be taken. For example, UK Government modelling suggests that the spread of pandemic flu would be merely delayed, rather than prevented, even if 99.9% of inbound travel was prevented. The ramifications for the global economy would be extremely serious.

§71.6 Report of death or illness onboard flights

It is already routine for the most senior member of cabin crew to report serious illnesses or deaths onboard to the aircraft commander. We are concerned that with a relatively broad definition of an "ill person" as proposed in this NRPM, there will be reports made from almost every flight. Although the symptoms set out in the definition of an "ill person" could be indicative of a contagious disease, they are also common to many minor ailments. We would urge the CDC to use the International Civil Aviation Organisation definition instead, i.e. an "ill person with suspected communicable disease", which will lead to a more proportionate level of reporting.

This section would also require airlines to distribute public health notices as and when ordered by the Director of the CDC. It should be recognised that, in the event of a pandemic, other national governments could also require airlines to distribute notices, possibly with conflicting advice. We would recommend that an international approach be followed, with bodies such as the World Health Organisation (WHO), International Air Transport Association (IATA) and ICAO be used to develop global standards for messages.

§71.7 Written plan for reporting of deaths and illness onboard flights and designation of an airline agent

Airlines already have procedures for alerting the relevant authorities in the event of death or illness onboard a flight. We are concerned that differing plans when flying to or over-flying different countries could lead to confusion.

This section also proposes a requirement for us to nominate a point of contact at the airline. Whilst we would be able to give the CDC contact details for a role (e.g. a Duty Officer), it would be impossible to provide the

name of one individual who would be the CDC's first point of contact 24/7, 365 days of the year.

§71.10 Passenger information requirement

Existing airline reservations systems do not keep passenger data after the flight is completed, therefore this proposal would have serious implications for carriers, requiring them to construct entirely new databases. It would also cause considerable operational problems, not least the additional time at check-in required to collect the additional data sets, adding to passenger queues already made longer by recent changes to immigration and security controls. Although we would try to collect as much of this data as possible in at the time of booking this would not catch all passengers, particularly those purchasing flights through travel agents and tour operators.

There are, however, many overlaps between the passenger information collection, retention and transmission system proposed in this NPRM and the US Department for Homeland Security's (DHS) Final Rule on Advance Passenger Information System (APIS). The US DHS also collects a substantial amount of information from our reservations system as PNRs (Passenger Name Records). Rather than establishing a separate information system for quarantine purposes, the CDC could look to other government departments that are already collecting this (or similar) data.

Of the list of passenger information fields proposed in this section, all but one are (or soon will be) available to the DHS. The passenger's PNR, which is created when they make a booking directly with the airline, would normally contain their full name, flight information, the names of people with whom they are travelling on the same booking reference code, the lead passenger's billing address (normally), the lead passenger's email address so that they can be sent an e-ticket (this is increasingly common) and contact phone number (be it mobile, home or work). The US DHS has access to this information from the moment of booking. APIS data, which includes the passenger's passport number and country of origin, plus their destination address in the US, will be available to the DHS later this year.

Since the catastrophic events of September 11, 2001, airlines have been required to implement ever-increasing amounts of security and immigration processes and procedures, in the case of non-US carriers largely without any financial support from Government. Whilst we would agree that the health, safety and security of our passengers and crew are always our highest priorities, this is a mounting legislative and cost burden. The set-up costs of compliance with US Government requirements for APIS collection and transmission by Virgin Atlantic alone have run into many millions of dollars. The project has also put massive pressure on the airline's limited resources, due to the complexity of the data collection procedures and IT processes required. We are concerned that the CDC proposal as it stands would require at minimum a duplication of this expense and resource, if not considerably more investment. CDC has estimated costs of \$10 million to larger carriers, which is a staggering figure in itself, but it should be recognised that the cost for smaller carriers such as Virgin Atlantic will not be dissimilar, as the IT infrastructure development costs will be the same whether for 1 million or 10 million passengers per annum. Public health, like

immigration and security, is the responsibility of national governments not airlines and should be funded as such.

If the CDC is not able to take advantage of the wealth of information already collected by other Departments of the US Government, then a "stand alone" system may be needed. It is inevitable that the vast majority of the data collected specifically for CDC, if the proposed system is adopted, will not be needed. Whilst there are obvious benefits to contact tracing in the case of SARS or tuberculosis, the projected incubation period of pandemic flu would make such a mechanism ineffective. An approach which is both more proportional and more practical is currently being developed by the International Air Transport Association (IATA) and World Health Organisation (WHO). This solution would enable contact tracing after disembarkation when it is judged necessary due to the nature of the illness concerned.

As with APIS and other security and immigration measures, it is likely that other national governments will want to introduce their own schemes. The lessons of the post-Sept 11 world, which has seen a proliferation of border controls that are largely incompatible with each other, should demonstrate the need to develop a system that can be used by all countries to halt the spread of contagious diseases. Virgin Atlantic would therefore recommend that the CDC work with IATA and WHO to arrive at a global solution to this international issue.

The CDC should also be mindful of the possible data protection issues raised by PNR access by US authorities, which are currently the subject of a legal challenge being heard by the European Court of Justice.

§71.11 Written plan for implementing §71.10

The schedule set out in the NPRM of submitting a written plan of action on how airlines would implement the data collection, storage and transmission requirements envisaged in §71.10 is too tight. Experience shows that this would be a very complex process to set up, requiring input from across the business as well as external expertise. We would recommend increasing this to at least one year after the publication of the final rule.

§71.13 Sanitary measures

Virgin Atlantic, as part of its contingency planning procedures, is already working with specialist providers to develop enhanced sanitary measures in the event of pandemic flu. Whilst we respect the CDC's right to implement additional requirements as it sees fit, we ask that carriers' own measures are taken into account.